

Abstract – Means of Evidence in Civil Proceedings

The topic of this thesis is means of evidence in civil process. The taking of evidence is the most important part of civil proceedings, and therefore this paper presents its comprehensive summary, together with an overview of the means of evidence available in civil proceedings. This work is divided into three main parts with many subchapters. The first part deals with the process of proving in general. It describes its course, main principles and rules that govern it. Likewise, this section focuses on partial issues in the taking of evidence, such as the standard of evidence or proving negative facts. Last but not least, it deals with the burden to claim and prove facts and their distribution among the parties.

The second part deals with evidence expressly provided for in the Code of Civil Procedure. In practice, these means of proof are most often found in court proceedings, and therefore their application is dealt with in a number of texts and court decisions. Nevertheless, this section outlines how the individual evidence has evolved over time. The third part deals with non-regulated evidence in the Code of Civil Procedure. Of these, the most widespread is audio and video recordings whose crucial issue is their admissibility in the light of the right to protection of personality, which has recently undergone significant developments with a shift towards more frequent admissibility. Another evidence that this section deals with is the DNA test in the paternity assessment procedure. It is a relatively new institute in the domestic legal system, but it has gained an absolutely privileged position in this procedure. However, even in this case, several issues related to it had to be addressed. One of them is, for example, a situation when the alleged father refuses to take the DNA test. In such a case, the court has the possibility to impose disciplinary fines and in some cases have the person presented to an expert.

Throughout the text, this thesis provides a comparison with the regulation in force in Finland. As a Member State of the European Union, the Finnish legislation on the taking of evidence or means of evidence is considerably harmonized, so it is very similar to the domestic one but there are still some differences that are described in this work.

The knowledge on which this work is based draws mainly from Czech-language literature, but also from foreign sources. Another source of information for this work is court decisions dealing with the issue. Last but not least, it is based on the texts of individual laws and comments on them.